

Message Text

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ACTION ARA-14

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FM AMEMBASSY GUATEMALA

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TAGS: AODE

SUBJ: FY 78/79 MODE

REF: (A) GUATEMALA 3026; (B) STATE 177816

1. STANDARD PRACTICE AT THIS MISSION, AT LEAST FOR AS LONG AS ANYONE CAN RECALL, HAS BEEN TO APPLY THE MODE CLEARANCE PROCEDURE TO FULL TIME PERMANENT POSITIONS WITHIN USG AGENCIES REPORTING TO THE AMBASSADOR (AS STATED IN THE MODE INSTRUCTIONS). IN THE CASE OF A.I.D., THIS HAS MEANT CONTROLLING THE NUMBER OF DIRECT HIRE POSITIONS AS LISTED IN AID/W'S PERIODIC ADVICE OF CEILINGS TO THE USAID.

2. THE FIVE USDA PASA PERSONNEL MENTIONED IN REF. A HAVE BEEN IN-COUNTRY SINCE JANUARY 1977. FOUR WERE USDA EMPLOYEES BEFORE THEIR ASSIGNMENT TO GUATEMALA AND ONE IS UNDER CONTRACT TO USDA. THE PASA IS FUNDED UNDER A PROJECT AGREEMENT SIGNED BETWEEN AID AND THE GOG UNDER WHICH AID AGREED TO PROVIDE TECHNICAL ASSISTANCE TO VARIOUS GOG AGENCIES IN SUPPORT OF A RURAL DEVELOPMENT LOAN. THE AGREEMENT PROVIDES FOR A FOUR YEAR LIFE OF PROJECT UNDER WHICH THE INDIVIDUALS PROVIDING TECHNICAL ASSISTANCE WILL SERVE VARYING PERIODS OF TIME. THUS THESE INDIVIDUALS ARE NOT FILLING PERMANENT POSITIONS IN GUATEMALA. THE PROJECT AGREEMENT IS ALSO FUNDING CONTRACTS WITH OTHER US

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CITIZENS ALTHOUGH NOT UNDER PASA ARRANGEMENTS. ALL TECHNICIANS ARE ASSIGNED TO GOG AGENCIES WHERE THEY HAVE BEEN GIVEN OFFICE SPACE AND OTHER LOGISTIC SUPPORT (TRANSPORTATION, SECRETARIAL ASSISTANCE, ETC.) IN EFFECT, THE PASAS ARE CONTRACTORS WORKING FOR THE GOG ALTHOUGH FOR ADMINISTRATIVE REASONS, AID AND USDA ARE PARTIES TO THE PASA PURSUANT TO THE PROJECT AGREEMENT. IN THE SAME WAY, AID HAS ENTERED INTO OTHER CONTRACTS FOR

PROVISION OF TECHNICIANS UNDER THE SAME PROJECT AGREEMENT. AS
A PRACTICAL MATTER, THERE IS NOT DIFFERENCE AMONG THE CONTRACTS.

3. REQUIRING MODE CLEARANCE FOR THESE PASAS WOULD REQUIRE AN
UNNECESSARY INCREASE IN THE USAID'S MODE CEILING IN THAT
AGREEMENT WAS REACHED SOMETIME AGO ON AN APPROPRIATE LEVEL
WHICH PROVIDES THE USAID WITH SUFFICIENT DIRECT HIRE PERSONNEL
TO CARRY OUT ITS RESPONSIBILITIES. INCLUDING PASAS UNDER
THE CIRCUMSTANCES CITED ABOVE WOULD ALSO NECESSITATE FREQUENT
REQUESTS FOR CHANGES IN THE USAID'S MODE CEILING IN ORDER TO
ACCOMMODATE PERSONNEL WHOSE NUMBERS FLUCTUATE ACCORDING TO THE
NEEDS OF PARTICULAR PROJECTS WITH LIMITED LIFE SPANS. THUS
MEANINGFUL APPLICATION OF MODE CONTROLS WITHIN THE INTENT OF
THE SYSTEM AS IT WAS ESTABLISHED BECOMES IMPOSSIBLE IF
ORDERLY IMPLEMENTATION OF PROJECTS IS TO BE ACHIEVED. MOREOVER,
IF FINGIBILITY OF POSITIONS WERE TO BE AVOIDED, SOME SORT OF
SYSTEM FOR MAINTAINING SEPARATE CEILINGS FOR DIRECT HIRES AND
PASAS WOULD BE NEEDED.

4. OUR READING OF THE MODE INSTRUCTIONS LEADS TO THE CONCLUSION
THAT THE OBJECTIVES OF THE SYSTEM ARE NOT SERVED BY INCLUDING
PERSONNEL WORKING IN NON-PERMANENT POSITIONS AND WHO, IN
EFFECT, ARE WORKING FOR HOST GOVERNMENT AGENCIES. WE ASSUME
THAT THE REASONS FOR SPECIFICALLY EXEMPTING US CITIZEN CONTRAC-
TORS OF AID FROM MODE FOLLOWS FROM THIS REASONING AND WE SEE
LITTLE PRACTICAL DIFFERENCE BETWEEN CONTRACTORS PROVIDED
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THROUGH A USG AGENCY AND THOSE PROVIDED UNDER A UNIVERSITY
CONTRACT. IF THE USAID IS TO CARRY ON ITS NORMAL FUNCTION OF
FUNDING TECHINICAL ASSISTANCE TO THE GOG UNDER APPROVED PROGRAMS,
IT SHOULD BE FREE TO CONTRACT WITH THE BEST QUALIFIED PEOPLE
WITHOUT BECOMING EMBROILED IN THE MODE CLEARANCE PROCESS IN
ORDER TO OBTAIN TEMPORARY CEILING INCREASES.

5. ACCORDINGLY, THE FIVE PASAS IN QUESTION HAVE NOT BEEN
INCLUDED UNDER THE USAID'S MODE CEILING. THEY ARE NOT IN
THE USAID ADVICE OF CEILING AND SHOULD NOT BE GIVEN THE
CIRCUMSTANCES OF THEIR EMPLOYMENT.
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